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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,663	09/29/2003	Kevin J. Foreman	A1996006C3	2362

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PETER J. GORDON, PATENT COUNSEL  
AVID TECHNOLOGY, INC.  
ONE PARK WEST  
TEWKSBURY, MA 01876

EXAMINER
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HUYNH, BA

ART UNIT	PAPER NUMBER
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2179

MAIL DATE	DELIVERY MODE
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01/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/673,663

Applicant(s)

FOREMAN ET AL.

Examiner

Ba Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/07 has been entered.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 6-10 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent #5,682,326 (Klingler).

- As for claim 1: Klingler et al (hereinafter Klingler) teach a computer program product, comprising: a computer readable medium storing computer program instructions that, when processed by a computer, instruct the computer to perform a process for facilitating editing of a motion picture (see abstract), comprising: automatically generating (i.e., automatically assemble the dragged reference clips into a video program represented in timelines of sequencer window 70) in the computer

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system a sequence of clips representing the motion picture from a description (7:10-17, project window 60) of the motion picture (6:38-67), wherein each clip has an initial duration defined by the description of the motion picture (6:61-62, figure 4); receiving input from a user indicating instructions to associate motion video information stored in computer data files with clips in the automatically generated representation of the motion picture, and storing for each clip a reference to the associated data file and a time range of the motion video information from the associated data file (7:37-59); and updating the duration of each clip to which motion video information is associated to correspond to the duration of the motion video information from the time range (7:55-59).

- As for claim 2. The receiving input comprises: receiving input from the user to select a clip; and receiving input from the user to specify motion video information to be associated with the selected clip (motion video information associated with a selected clip can be specified by an edit command, 7:47-51, 8:1-18, 9:19-29).

- As for claim 4: The receiving input comprises: receiving input from the user to select a clip; receiving input from the user instructing the computer to capture motion video information into a data file on the computer while the selected clip is selected; and associating the captured data file with the selected clip (each clip has a pointer to the physical location where motion video information associated with the clip can be captured into the sequencer data file).

- As for claim 6: The description of the motion picture includes a plurality of shot descriptions (figure 4, "Name").

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- As for claim 7: The shot description includes a field for storing a reference to a single still image descriptive of the shot (fig 13).
- As for claim 8. The shot description includes a field for storing in and out points identifying the shot.
- As for claims 9, 10: The shot description includes a field for storing text providing a tip for filming a shot during production (fig 4, "Comment").

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingler, in view of US patent 5,568,275 (Norton et al).

- As for claims 3, 5: Disclosed in figure 4 are status indicator and tape ID which indicating the availability of the video clips. Klingler is silent regarding displaying an indication for a clip that has no motion video information associated with it. However, implementation of the clip with no video information associated (blank clip) is disclosed by Norton et al (6:10-11). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Norton's teaching of the blank clip to Klingler. Motivation of the combine is for providing placeholder for editing instruction as suggested by Norton. In light of the combining indicator for indicating the clip with no

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motion video information associated will be displayed to the user in project window 60 of Klingler.

- As for claims 11, 13, 15: Klingler et al (hereinafter Klingler) teach a computer program product, comprising: a computer readable medium storing computer program instructions that, when processed by a computer, instruct the computer to perform a process for facilitating editing of a motion picture, comprising: storing in a computer system a representation of a plan for the motion picture, wherein the plan specifies a sequence of shots, wherein each shot is specified by a shot description including a reference to a textual description of the shot and a duration of the shot (7:10-17, shot description is disclosed in window 62 of figure 4), displaying to a user a storyboard on a display for the computer system according to the sequence of shots specified by the plan (project window 60); allowing the user to modify the representation of the plan in the computer system; automatically (i.e., automatically assemble the dragged reference clips into a video program represented in timelines of sequencer window 70) generating in the computer system a sequence of clips representing the motion picture from the stored representation of the plan, wherein each clip corresponds to a shot in the sequence of shots and has a duration that corresponds at least initially to the duration of the corresponding shot (figure 5); storing motion video information from the sources in data files on the computer system; associating motion video information stored in the data files on the computer system with each clip in the representation of the motion picture and storing for each clip a reference to the associated data file and a range within the data file, such that the duration of each clip corresponds to the associated motion video

information; displaying to the user the sequence of clips as a timeline and in a video window on a display for the computer system according using the associated motion video information (2:3-21); and allowing the user to modify the sequence of clips in the computer system (see description of figure 5). Klingler is silent regarding a clip that has no motion video information associated. However, implementation of the clip with no video information associated (blank clip) is disclosed by Norton et al (6:10-11). It would have been obvious to one of skill in the art, at the time the invention was made, to combine Norton's teaching of the blank clip to Klingler. Motivation of the combine is for providing placeholder for editing instruction as suggested by Norton. In light of the combining indicator for indicating the clip with no motion video information associated will be displayed to the user in project window 60 of Klingler.

- As for claim 12. The associating motion video information stored in the data files on the computer system with each clip comprises: receiving input from the user to select a clip; and receiving input from the user to specify motion video information to be associated with the selected clip (motion video information associated with a selected clip can be specified by an edit command, 7:47-51, 8:1-18, 9:19-29).

- As for claim 14: The associating motion video information stored in the data files on the computer system with each clip comprises: receiving input from the user to select a clip; receiving input from the user instructing the computer to capture motion video information into a data file on the computer while the selected clip is selected; and associating the captured data file with the selected clip (each clip has a pointer to the physical location where motion video information associated with the clip can be

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captured into the sequencer data file).

- As for claim 16: The shot description includes a field for storing a reference to a single still image descriptive of the shot (figure 13).
- As for claim 17: The shot description includes a field for storing a number identifying the shot (in and out points).
- As for claim 18: The shot description includes a field for storing text providing a tip for filming a shot during production (figure 4, "comment").
- As for claim 19: The shot description includes a field for storing text providing a tip for editing a shot in the motion picture (fig. 4, "comment").

### ***Response to Arguments***

Applicant's arguments filed 12/7/06 have been fully considered but they are not persuasive.

#### **REMARKS:**

Klingler teaches automatically generating in the computer system a sequence of clips representing the motion picture (i.e., automatically assemble the selected reference clips, either by dragging or double clicking 6:19-21), into a video program represented in timelines of sequencer window 70) from a description of the motion picture (A program is a description of a motion picture (7:10-17). Also, Nordic Tour/Project window 60 comprises descriptions of motion picture taken in the Nordic Tour, 7:22-36). The reference clips do not contain video media (i.e., video information). The user may cause the computer to automatically assemble a sequence of clips representing the motion picture of Nordic Tour. It is noted that the user does



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not assemble the reference clips into the Nordic Tour motion picture. The user merely drags the reference clips into the timeline. The assembling is done automatically by the computer.

In response to the argument that Klingler does not teach allowing a user to associate video with clips already in a sequence because Klingler's disclosure requires video to be associated with clips prior to those clips being placed in a sequence, the argument is not deemed persuasive in light of Klingler's teaching of program description and project window. The program description (7:10-12) and project window (3:49-55) comprise reference clips usable to create a video program. Each reference clip does not contain video (7:12-17). Only when the program is rendered, the system processes the source media referenced in the reference clips (4:26-30).

In response to the argument that Klingler does not teach that each shot description includes a field for storing text providing a tip for filming or editing a shot, the Name, Duration, In/Out points, Tracks, Status, Tape ID are information usable as tip for filming and editing. In addition the Comment field allows storing any information relating to the clip. It should be apparent to one of skill in the art that the comment can be used in filming or editing of the clip depending how the user appreciates the comment.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.

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1992). In this case, one of skill in the art would be motivated to combine Norton's teaching of the blank clip to Klingler for inserting video later. Graphically displayed, the EDL provides an indication of the blank clip.

### *Conclusion*

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ba Huynh  
Primary Examiner  
AU 2179  
1/24/08

BA HUYNH  
PRIMARY EXAMINER